

MONTANA LEGISLATIVE HISTORY

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Chapter 68 1995

Bill H 54 S _____ Original bill & history ✓c

H. Committee on Local Govt.

Hearing Date(s) _____ c

1/5 ✓c

_____ c

_____ c

Date Out 1/10 ✓c

S. Committee on Bus. & Industry

Hearing Date(s) _____ c

1/26 ✓c

_____ c

1/27 ✓c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HB 54 INTRODUCED BY T. NELSON

CLARIFY THAT INSURANCE POOLS ESTABLISHED JOINTLY BY POLITICAL
SUBDIVISIONS MAY OBTAIN EXCESS INSURANCE WITHOUT
PROCEEDING UNDER THE PROVISIONS OF SECTION 33-2-302(2)
THROUGH (4) OF THE SURPLUS LINES INSURANCE LAW

12/28	INTRODUCED		
12/30	FISCAL NOTE REQUESTED		
1/02	FIRST READING		
1/02	REFERRED TO LOCAL GOVERNMENT		
1/05	HEARING		
1/05	FISCAL NOTE RECEIVED		
1/05	FISCAL NOTE PRINTED		
1/11	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/13	2ND READING PASSED	89	9
1/13	REVISED FISCAL NOTE REQUESTED, AS AMENDED BY LOCAL GOVERNMENT COMMITTEE		
1/16	REVISED FISCAL NOTE RECEIVED		
1/16	REVISED FISCAL NOTE PRINTED		
1/17	3RD READING PASSED	89	7
	TRANSMITTED TO SENATE		
1/18	FIRST READING		
1/18	REFERRED TO BUSINESS & INDUSTRY		
1/26	HEARING		
1/30	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
1/31	2ND READING CONCURRED	50	0
2/01	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE WITH AMENDMENTS		
2/17	2ND READING AMENDMENTS CONCURRED	97	0
2/18	3RD READING AMENDMENTS CONCURRED	97	2
2/18	SIGNED BY SPEAKER		
2/18	SIGNED BY PRESIDENT		
2/20	TRANSMITTED TO GOVERNOR		
2/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 68		
	EFFECTIVE DATE: 02/22/95		

HB 55 INTRODUCED BY BOHLINGER

REVISE THE STATE CHILD SUPPORT INCOME DEDUCTION LAWS TO
CONFORM TO THE REQUIREMENTS OF 42 U.S.C. 666(A)(8)(B)
BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION
SERVICES

12/29	INTRODUCED		
1/02	FIRST READING		
1/02	REFERRED TO JUDICIARY		
1/13	HEARING		
2/01	TABLED IN COMMITTEE		
2/10	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	2ND READING PASSED	59	41
2/13	3RD READING PASSED	62	36
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO TAXATION		
3/06	REREFERRED TO JUDICIARY		
3/15	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED		
3/18	2ND READING CONCURRED	46	0
3/20	3RD READING CONCURRED	50	0

HOUSE BILL NO. 54

INTRODUCED BY T. NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT INSURANCE POOLS ESTABLISHED BY POLITICAL SUBDIVISIONS ARE NOT SUBJECT TO REGULATION BY THE COMMISSIONER OF INSURANCE WITH RESPECT TO THE PURCHASE OF EXCESS OR REINSURANCE COVERAGE; AMENDING SECTION 2-9-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-9-211, MCA, is amended to read:

"2-9-211. Political subdivision insurance. (1) All political subdivisions of the state may procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part. Political subdivisions that elect to procure insurance under this section are not subject to the regulatory authority of the commissioner of insurance under Title 33 with respect to the purchase of excess or reinsurance coverage.

(2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve separately or jointly with other subdivisions.

(3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance for all liability coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the reserve fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the fund.

(4) Money in reserve funds established under this section not needed to meet expected expenditures ~~shall~~ must be invested, and all proceeds of the investment must be credited to the fund.

(5) A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance or deductible reserve fund and costs incident ~~thereto~~ to the reserve fund in an amount not exceeding 3% of the taxable value of the political subdivision as of the date of issuance. The bonds or

1 notes must be authorized by resolution of the governing body, are payable from the taxes authorized by
2 2-9-212, may be sold at public or private sale, do not constitute debt within the meaning of any statutory
3 debt limitation, and may contain ~~such~~ other terms and provisions as the governing body determines. Two
4 or more political subdivisions may agree pursuant to an interlocal agreement to exercise their respective
5 borrowing powers ~~hereunder~~ under this section jointly and may authorize a joint board created pursuant
6 to ~~such~~ the agreement to exercise ~~such~~ powers on their behalf."

7

8 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

9

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0054, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying that insurance pools established by political subdivisions are not subject to regulation by the commissioner of insurance with respect to the purchase of excess or reinsurance coverage.

ASSUMPTIONS:

1. The number of political subdivisions that purchase insurance from surplus lines or unauthorized foreign insurers will triple above the current number. The associated estimated reduction in premium tax revenue is based upon tripling the premium tax collected using information from current insurance issued through exempt insurers.
2. Any political subdivision purchasing insurance through surplus lines will be exempt from premium tax payments.
3. Any political subdivision purchasing insurance through an unauthorized foreign insurance company will be exempt from premium tax payments.
4. The insurance currently purchased from surplus lines or unauthorized foreign insurers by political subdivisions is comprehensive general liability insurance.
5. There will be no fiscal impact on the expenditures of the State Auditor's Office or other state agencies.
6. The premium tax collected by the State Auditor's Office is deposited in the general fund.

FISCAL IMPACT:

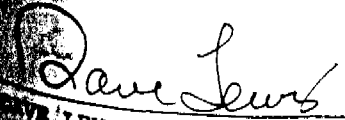
Revenues:

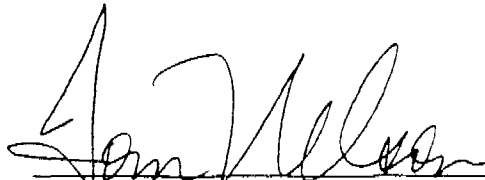
	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Premium Tax-General Fund (01)	(129,000)	(129,000)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Insurance expenditures by local political subdivisions will decrease by at least \$129,000 per year. The \$129,000 is the estimated amount of reduction in premium taxes paid by local political subdivisions.

If purchasing insurance through a non-authorized carrier, the local government loses the protection of the guarantee association and subjects itself to financial liability in the event of an insolvency.

 1-4-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


TOM NELSON, PRIMARY SPONSOR DATE

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0054, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

Clarifying that insurance pools established separately or jointly by political subdivisions may obtain excess insurance without proceeding under the provisions of section 33-2-320(2) through (4) of the surplus lines insurance law.

ASSUMPTIONS:

1. The bill, as amended, does not exempt political subdivisions from premium taxes.
2. The bill, as amended, has no fiscal impact on state agency expenditures or revenue.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

By purchasing insurance through a non-authorized carrier, a local government loses the protection of the guarantee association and subjects itself to financial liability in the event of an insolvency.

Dave Lewis 1-14-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Tom Nelson 1/16/95
TOM NELSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0054, second reading

HB 54 * 2

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN WILLIAM BOHARSKI, on January 5, 1995,
at 3:00 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 54; HB 61; HB 79
Executive Action: NONE

{Tape: 1; Side: A; Approx. Counter: 0.5}

CHAIRMAN WILLIAM BOHARSKI announced for witnesses and visitors to sign in, give their name, whom they are representing and also testimony sheets are provided for witnesses and may be submitted to the secretary. He then reviewed the sequence of the meeting; sponsor opening, proponents, opponents and also technical information may be given.

{Tape: 2; Side: A; Approx. Counter: 4.4}

CHAIRMAN BOHARSKI asked Mr. Morris to explain the position he took regarding the Montana Association of Counties convention and if most of the frustration he feels is with other elected officials or with the appointed officials or is it equal. Mr. Morris responded that it is clearly the case that it is directed at other elected officials.

Closing by Sponsor:

REP. FELAND closed by saying, "This bill would give the citizens a mechanism to get rid of someone that is not doing their job and causing the commissioners problems. This will make a system so the taxpayers and people do not have to go through a bunch of frustration. This is not designed to get rid of some sheriff that's picking on someone's kid. If the magistrates are concerned, an amendment can be done." REP. FELAND then referred to Section 1 insofar as the criteria is to fire somebody. He reaffirmed that if the sheriff is worried about going to school more than fifteen days all he needs is the consensus of the county commissioner and he could leave the county for ninety days.

CHAIRMAN BOHARSKI announced Executive Action on this bill would be next Tuesday.

{Tape: 2; Side: A; Approx. Counter: 8.8}

HEARING ON HB 54

Opening Statement by Sponsor:

REP. TOM NELSON, HD 11, Billings Heights distributed his amendment to the committee. EXHIBIT 2 He then referred any questions on what affect the amendment has on the fiscal note be directed to Deputy Insurance Commissioner Frank Cody. REP. NELSON then read his introductory statement for HB 54. EXHIBIT 3 REP. NELSON announced to committee members that Gordon Morris, proponent, was present at this committee meeting and also Roger McGlenn, noponent, representing the Independent Agents Association. Mr. Morris submitted written testimony from Howard R. Bailey, Workers' Compensation Risk Retention Program, Helena. EXHIBIT 4

{Tape: 2; Side: A; Approx. Counter: 13.9}

Proponents' Testimony:

Greg Jackson, Marketing Director, Joint Power Insurance Authority Property and Casualty Pool (JPIA) distributed a handout explaining the structure of JPIA. EXHIBIT 5 Mr. Jackson said, "In 1986 public entities throughout Montana were experiencing two

things as far as insurance coverage and property casualty was concerned: 1) they were given what is called in the insurance industry as a "hard market" whereby, public entities, if they could find coverage especially for law enforcement and errors and omission coverage and general liability coverage to some extent, could not find it; and 2) if they could find it, they were experiencing from ten, twenty, and in some cases a 100% increase in premiums. As a result of that situation, the association of counties looked into the possibility of self-insuring for the property and casualty coverage in counties. As a result of that, in 1986 the property and casualty pool was established in October. Since then and at that time, the program was structured using surplus lines to supply the excess coverage over and above the self insured retention or the amount of money that was collected for the self insurance portion of the program. They have been proceeding with that structure ever since."

Mr. Jackson explained the organization chart (**Exhibit 3, page 2**). He went on to page 3 showing how the program is structured. **Mr. Jackson** reviewed the self insurance pool that has a self insured retention, and explained, "The money is collected from the members and put into a loss fund or a self insurance fund and that loss fund pays \$50,000 of each and every claim be it property, general liability, errors and omissions, law enforcement or crime claim." He then explained page 4 saying this is a copy of the brochure for the annual convention and it illustrates an overview of membership; forty counties currently in the property casualty pools and eighteen special districts. They do provide coverage to allow special districts, conservation districts, water and sewer and irrigation districts to be part of the pool. They market those entities as well as the counties to local agencies.

Mr. Jackson said one of the primary goals of the program is to retain flexibility in managing their own programs and as amended, HB 54 would retain that flexibility by allowing them to purchase surplus fines coverage as well as looking at admitted coverage and deciding between the two, which would be the best coverage at the lowest price. This is what they want for the members and they want retaining the flexibility to continue.

Mr. Jackson pointed out that as the charts indicate, they are a viable pool, a program cost and stabilized. The loss fund has increased in value; they do annual audits every year; they comply with actuarial studies and are very financially stable. With that he asked that HB 54 have favorable consideration and approval by the committee.

{Tape: 2; Side: A; Approx. Counter: 20.4;}

Norm Grosfield, Helena attorney, representing the Worker's Compensation Insurance pool and the Liability Insurance Pool for the Montana Association of Counties said they believe this bill is a clarification of the law and does not change the law. It is

clarification based on the revised thinking of the insurance commissioner. When the new commissioner was asked to review this issue from 1986 to 1993 they had proceeded with the blessing of the prior insurance commissioner's interpretation regarding the purchasing of excess coverage. **Mr. Grosfield** said they worked out the amendments with the **Independent Insurance Agents Association** to attempt to resolve some of their concerns. The association was concerned that the original language of the bill was too broad, but the amendment has alleviated those concerns. Carriers in Montana can be licensed as admitted carriers or surplus line carriers. It takes more of a process to go through admitted carrier process. They only deal with the top rated companies that are recognized in the United States, including Lloyds of London. They have decided not to go through the admitted process but they are excellent companies. "By going through the surplus lines market, it actually saves the trust and the taxpayers a substantial amount in premium costs as opposed through the admitted market. The taxpayers pay the premium of the trust to let the trust operate." He then encouraged a positive consideration of the bill.

Gordon Morris, Director, Association of Counties, and secretary to the trust since it was created in 1986 agreed with previous testimony and said he echoed everything said and asked the committee for favorable consideration. He closed by saying this is a very important issue to the trust and Montana counties.

Bob Worthington, Programs Administrator for the Montana Municipal Insurance Association (MMIA) testified that this organization created in 1986 is very similar to MACO, however, they insure cities and towns across the state of Montana. They provide liability insurance coverage to 108 incorporated municipalities across the state out of a total pool of 127. At this point in time, MIIA does not use excess insurance on their liability side. When they were created they were unable to find excess insurance in the market place, therefore they passed a bond issue to capitalize their insurance program and their lost fund. All of their documents do allow them to operate very similar to the county program and allows them the possibility of purchasing excess insurance in the future. On an annual basis, they continue to review the market place to see if excess insurance would be a viable option for them. At this point, it has not been however, they would like to retain the option to do that. This would allow them to continue to provide cost effective insurance as they have been able to do in the past. This would benefit their program also. He urged the committee's favorable consideration of this bill.

CHAIRMAN BOHARSKI asked if he would be correct in assuming that all of the proponents have consulted with **REP. NELSON** prior to their speaking in support of the bill with the amendment. This was affirmative.

Opponents' Testimony: None

{Tape: 2; Side: A; Approx. Counter: 26.0;}

Informational Testimony:

Roger McGlenn, Executive Director of the Independent Insurance Agents Association (IIAA) and also Executive Director of the Montana Surplus Lions Agents Association thanked CHAIRMAN BOHARSKI for allowing the proponents (technical position). He said under the original language he signed in as an opponent. He affirmed that with the amendment Mr. Nelson has offered, it is a much improved approach to the issue as Mr. Jackson and Mr. Nelson have outlined. He also expressed appreciation to the MACO and Mr. Nelson for allowing IIAA to provide input prior to this hearing on the issue. Mr. McGlenn said this issue deals with the matter of public policy that is up before the legislature to decide. His committee has not taken an official opinion on the amendments but they are pleased with the improved approach to this issue.

Mr. McGlenn then noted the following points for the committee to be aware of prior to taking action on HB 54 by saying, "Make sure the committee understands that over time, political subdivisions, not just talking about MACO and the league of cities and towns, they are talking about a broader range under that definition of political subdivisions which includes water conservation districts, irrigation districts, etc. The other item being Mr. Jackson and Mr. Grosfield have outlined some of the technical information in regard as to what surplus lines insurance is and how it differs from the standard market place for what they are calling the limited market which the statute calls it." Mr. McGlenn said the other area that must be taken into consideration is that the surplus lines companies do not participate in the guarantee fund. He then described the guarantee fund as, "Those companies that are admitted under the western states guarantee fund for property and casualty and in the event of the insolvency of an insurance company; they pool their funds together to try and meet the liabilities of that insolvency. Under the surplus lines, one of the reasons the surplus lines evolved and was established by the state was to insure that the consumer, the taxpayer, was protected by the guarantee fund whenever possible."

Mr. McGlenn asked the committee to be very clear where the exemption stops. He noted some concerns by stating, "There could be a lot of requests forthcoming for further exemptions from this particular law for various reasons and which could ultimately, his associates are concerned, that after political subdivisions for example, if Washington Corporation, Montana Power Company, or a furniture manufacturer on Main Street Montana asks for exemptions, a lot of the protection that was provided under the superficial law and code, would be lost to those who are exempt and choose to go somewhere else." Mr. McGlenn asked that this information be put on record and concluded he supports the amendments but, if the bill is not amended and continues in its

present form, they would strongly oppose and ask for a do not pass recommendation.

{Tape: 2; Side: A; Approx. Counter: 30.1}

Questions From Committee Members and Responses:

REP. BOHLINGER noted in regard to the added risk that might be involved, in the fiscal note, there was \$129,000 that might be saved with the local, political subdivisions if this bill were put in place. He asked Mr. McGlenn if he feels the risk involved is sufficiently small that one might say we can afford the risk because of the gain that is offered and the opportunity to save local government this kind of money if the risk with respect to the reward would be justified. Mr. McGlenn directed this question to Frank Cody, Chief Deputy Insurance Commissioner and he replied that he disagrees with his understanding which is, "If the sponsor's amendments are accepted, the fiscal note would be negated and also they would continue to pay the tax dollars referred to. The fiscal note is done in projections, not actual dollars paid at this particular point in time but what if a lot of political sub-divisions shifted from the admitted market to the surplus lines market, what would the projected expense be. In regard to "Is the savings to the municipalities in reduced taxes equal to or outweigh the risk that may come from that participating guarantee fund, the taxes on political subdivisions insurance taxes is another issue and he did not want to take a position on whether this is tax or non-tax." "Secondly MACO screens the companies they do business with as far as financial stability. Without protection of the guarantee fund it could far out pace the \$129,000 on that bill to one municipality. If there was an insolvent carrier and claim against that municipality that had reinsured the lower plot, all the insurance in the surplus lines market, MACO has a good track record."

REP. WYATT asked Mr. McGlenn how the playing field is leveled or equal for those people who have gone through the process of being admitted carriers. Mr. McGlenn responded it is very complex, the differences between the admitted market and the non-admitted or surplus lines market. The primary difference is that although they have to be approved by the insurance department or declared eligible to do business in this state, they do not have to file their rates in forms that all admitted markets have to do. The specific reasons are in some cases like a pool of counties, there may not be one company who would write all the counties under their standard "off the shelf insurance policy form" but they may manuscript or draw up a whole new policy for that one business. Therefore, they could not file their rates in form. There are reasons why they are exempted and that is some of the hoops REP. WYATT referred to. From a competitive standpoint with the amendments to the bill, the people he represents in the private market could compete equally with the agents or brokers that public entities would use. They could use surplus lines and many of Mr. McGlenn's members are involved with the Montana

Association of County program. If they came to a water conservation district or one of the other political subdivisions, if they tried to buy jointly or separately, they could do the same and approach the same markets."

In conclusion **Mr. McGlenn** said he wants the committee to understand that "If they are exempted, there could be eventual concerns as far as solvency. You would have to look at every individual political subdivision plan to say which ones are well structured with solid companies and are there any structured without checking out the solvency of the company they would approach."

{Tape: 2; Side: A; Approx. Counter: 38.4}

REP. EWER asserted he believes, "The legislature has decided that it is in the best public policy, for whatever reason, to exempt local government insurance programs from the purview of the state auditory insurance commissioner and the issue is to force compliance with regulations from your office for surplus insurance and is this ingenious because we've already said you don't have to do self insurance." **REP. EWER** then asked **Frank Cody** to comment on his sense of the public policy. **Mr. Cody** responded that when the original bill was passed it was thought to be exempted some from the purview of the insurance commissioner's office and they recently, in the last two years, have found the problems and when looked at, it was realized that the law didn't specifically exempt them. After discussing with **MACO** and others involved they didn't think that the law allowed to do these things. It's the insurance commissioners job to make sure people comply with the law. They went to the people and told them they would not have to cancel their insurance midterm, they allowed them to keep the insurance they already had in place but when they renewed they would like you to go with what they read the law is or in the meantime, if they would like to get it clarified through the legislature, that would be fine. The law as it currently stands does not allow the ability to do what they have been doing in the past. The previous commissioner ruled differently on that."

REP. EWER asked **Mr. Cody** if he believes passing this bill is consistent with what appears to be the public policy of allowing local government to be self insured and not be under the purview of the insurance commissioner. **Mr. Cody** responded, "If that is what the legislature intended, yes, that is consistent. Their problem was they were not sure what they were trying to do."

Closing by Sponsor:

REP. NELSON reiterated "Surplus line companies that are being used are rated A+ and the purpose of using the surplus line companies are not to pay premium taxes but are to get the insurance coverage at the most advantageous rate and this is an

advantage to the tax payer who is really paying the premium. The bill clarifies the law and doesn't change it."

{Tape: 2; Side: A; Approx. Counter: 44.0;}

HEARING ON HB 61

Opening Statement by Sponsor:

REP. TOM NELSON, HD 11 explained, "This bill would remove the requirement that settlements entered into by self insurance pools operated by political subdivisions must be approved by a district court. Self insured pools operate like any other insurance carrier and throughout a year, are involved in many settlements of claims. Often, claims involve relatively small amounts and may or may not involve cases pending in a district court. District courts are not in a position to judge whether a settlement is appropriate, they do not have time to take evidence regarding a resolution reached between a self insured pool and claimant and the law creates an additional burden on district court dockets. The current language in the statute is unclear as to whether all settlements must be approved by a district court and only those settlements involving cases that have been filed in a district court. The requirement is a burden to both the insurance pool and the claimant as well as district courts. It is suggested that insurance payments made by political subdivisions be treated like any other insurance payment and let the parties resolve their disputes without delaying the process and payment and burdening district courts in regard to approvals." He urged the committee's approval of the proposed amendment to Section 2-304.

Proponents' Testimony:

Norm Grosfield, Attorney, representing the insurance pools that MACO operates stated they are asking that a technical provision be removed from the law that seems to require district court to review possibly all settlements entered into by pools. Insurance pools operated by subdivisions operate the same way as insurance companies or self insured employers in the state. They negotiate settlements, battle with opposing councils, litigate cases in district court and basically operate like any other insurance carriers. They do not know why this was put into the law, it's followed sporadically. If a case is before district court, they do try to get the judge to approve it. Judges do not want to be burdened with this procedure and they are not in the position to make a determination as to what the settlement is reasonable or not. Often times, dealing with small amounts of money, to agree to a settlement and then have a delay of several weeks or months to get it to court for review delays payment to the party involved and to settle the case with larger exposures, re-meeting with opposing counsel protecting their clients, they do not want the delay as well. He asked that this be removed from the law to

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 1-5-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		

Amendments to House Bill No. 54
First Reading Copy

Requested by Rep. T. Nelson
For the Committee on Local Government

Prepared by Bart Campbell
January 3, 1995

1. Title, line 4.
Following: "ESTABLISHED"
Insert: "SEPARATELY OR JOINTLY"
2. Title, lines 5 and 6.
Following: "SUBDIVISIONS" on line 5
Strike: "ARE" through "COVERAGE" on line 6
Insert: "MAY OBTAIN EXCESS INSURANCE WITHOUT PROCEEDING UNDER THE
PROVISIONS OF SECTION 33-2-302(2) THROUGH (4) OF THE SURPLUS
LINES INSURANCE LAW"
3. Page 1, line 14.
Following: "insurance"
Insert: "separately or jointly"
4. Page 1, lines 14 through 16.
Following: "section"
Strike: "are" on line 14 through "coverage" on line 16.
Insert: "may obtain excess coverage from a surplus lines insurer
without proceeding under the provisions of 33-2-302(2)
through (4) "

INTRODUCTORY STATEMENT
(HB 54)

The Montana Association of Counties Joint Powers Insurance Authority self-insured property and casualty pool was established in 1986 under the authority provided by Section 2-9-211 of the Montana Codes. Since the inception of the pool, the pool has purchased excess insurance coverage to cover the risk over and above the self-insured retention level established by the pools' Board of Trustees. The excess coverage is currently provided by surplus lines companies eligible to write such insurance in Montana.

The pools' Board of Trustees has proceeded to operate and purchase excess coverage based on previous Insurance Commissioner's interpretations of Sections 2-9-211 and Title 33-1-102 (8) (a) that exempts political subdivision self-insured pools from the provisions of the insurance code.

Recently, the previous interpretation of Section 33-1-102 (8) (a) has been revised regarding the purchase of excess coverage by surplus lines carriers. The revised interpretation requires compliance of the purchase of surplus lines coverage under the insurance code. The result of such an interpretation requires that if an authorized or admitted carrier is available to offer equivalent coverage to the pool, the pool would have to purchase such insurance from the admitted carrier, even though such coverage would have to be purchased at an increased cost to the pool or even reduced coverage for the pool.

HB 54, as amended, clarifies this issue and allows political subdivisions, who are self-insured either separately or jointly, to obtain excess insurance coverage without proceeding under the provisions of the insurance code as a condition precedent to procuring surplus lines insurance. HB 54 would retain subsection (1) whereby the purchase of excess coverage would be procured from a surplus lines company eligible to do business in Montana and subsection 5, whereby the pool would comply with other requirements of the code when procuring excess surplus lines coverage.

Workers' Compensation Risk Retention Program

Plan Administrator, Montana School Services Foundation - Howard R. Bailey, Director
1 South Montana Ave. • P.O. Box 5388 • Helena, Montana 59604
442-0557 (Administration)

January 4, 1995.

Mr. Greg Jackson
MACo/JPIA
2711 Airport Road
Helena, MT 59601

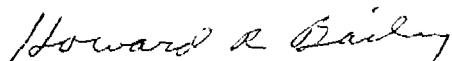
Re: Suggested legislation in reference 2-9-211

Dear Mr. Jackson:

I am in receipt of the information you sent to me in reference to the proposed bill that would clarify that political subdivisions that elect to procure insurance separately or jointly under the provisions of 2-9-211 are not subject to the surplus lines provisions of Title 33.

Since 2-9-211 clearly gives political subdivisions the authority to procure insurance through the use of a self insurance plan or a deductible plan, not being able to purchase excess or reinsurance under the most favorable conditions is detrimental to political subdivisions plans. As Program Administrator of the WCRRP, I would certainly be in favor of this.

Sincerely,



Howard R. Bailey
Program Administrator

HRB:prt

EXHIBIT 5
DATE 1-5-94
HB 54

HB 54

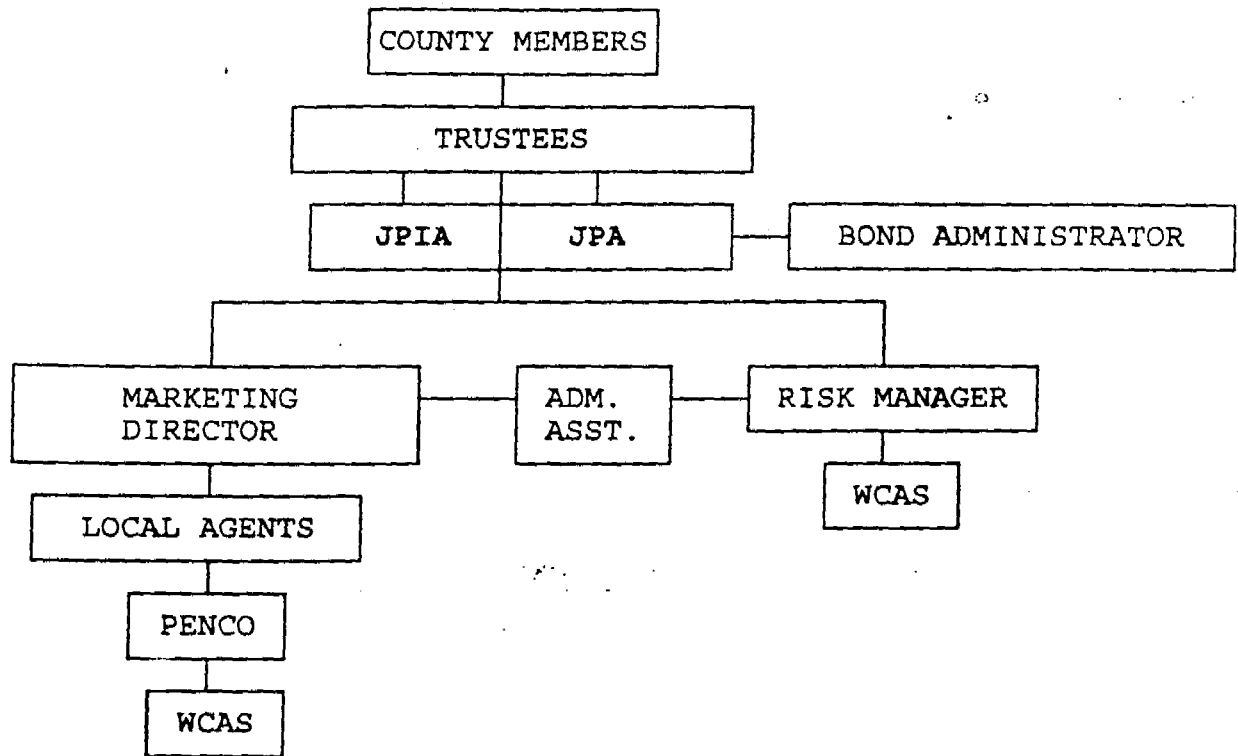
HOUSE LOCAL GOVERNMENT COMMITTEE

JANUARY 5, 1995

REPRESENTATIVE TOM NELSON

PRESENTED BY GREG JACKSON, JPIA MARKETING DIRECTOR

MONTANA ASSOCIATION OF COUNTIES
INSURANCE TRUSTS' ORGANIZATION CHART



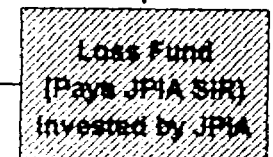
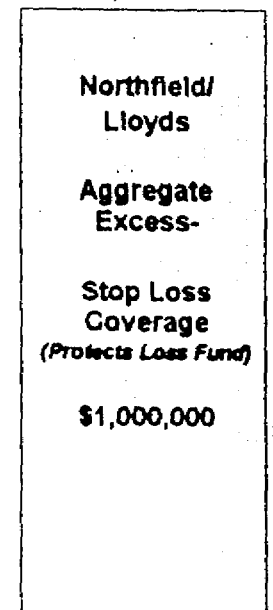
- JPIA** - Joint Power Insurance Authority - Property and Casualty Pool
- JPA** - Joint Powers Authority - Workers' Compensation Pool
- PENCO** - Public Entity National Company - Broker for the Property and Casualty Pool
- WCAS** - Willis Corroon Administrative Services - Claims administrator both pools

MACO JPIA

Program Structure

1994 - 95

Property	General Liability (incl. Law Enf.)	Automobile Liability	Public Officials E & O Liability	
Hartford Fire Insurance Company	St. Paul	St. Paul	St. Paul	
\$1,500,000	\$500,000 Occ. \$1,000,000 Agg.	\$500,000 CSL	\$500,000 Occ./Agg. Claims Made Form \$10,000,000 Total Pool Aggregate	
\$75,000,000	\$500,000 Agg. Prod./Comp. Ops.			
\$25,000,000 Flood				
\$25,000,000 Earthquake				
\$1,000,000	Northfield/Lloyds	Northfield/Lloyds	Northfield/Lloyds	
\$950,000	\$950,000 Occ. \$2,950,000 Agg. Law \$2,950,000 Agg. All Other	\$950,000 CSL	\$950,000 Occ/Agg. CLAIMS-MADE FORM \$20,000,000 Total Pool Aggregate Limit per Policy Period	
\$500,000	\$950,000 Aggregate Products/Completed Operations			Crime Northfield/Lloyds \$450,000
\$50,000	MACO - JPIA Self Insured Retention (per loss) \$50,000			
	Maintenance Deductible (per loss) Paid by Pool Member			



DATE 1-5-94
HB 54

JPIA Member Counties and Affiliate Members

BEAVERHEAD	MEAGHER
BLAINE	MUSSELSHELL
BROADWATER	PARK
CARBON	PETROLEUM
CASCADE	PHILLIPS
CHOUTEAU	POWDER RIVER
DAWSON	POWELL
FERGUS	RAVALLI
GARFIELD	RICHLAND
GLACIER	ROOSEVELT
GOLDEN VALLEY	ROSEBUD
GRANITE	SANDERS
JEFFERSON	STILLWATER
JUDITH BASIN	SWEET GRASS
LAKE	TETON
LEWIS & CLARK	TOOLE
LIBERTY	TREASURE
LINCOLN	VALLEY
MADISON	WHEATLAND
McCONE	WIBAUX

Conservation Districts

BITTERROOT
MISSOULA
POWELL
RICHLAND

Water / Sewer Districts

BIG FORK
MEADOWLAKE
MELROSE
SUN PRAIRIE

Irrigation Districts

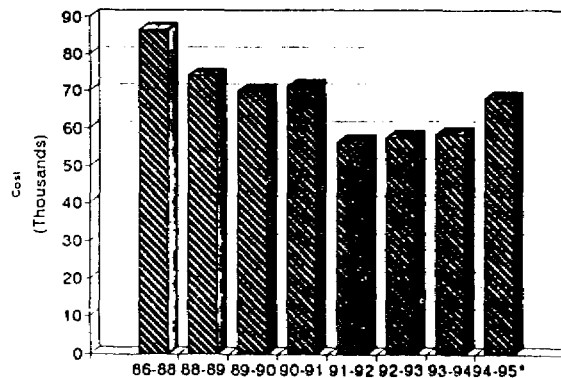
ALFALFA VALLEY
FORT BELKNAP
FORT SHAW
LOWER YELLOWSTONE
MALTA
MILL CREEK
PARADISE VALLEY
ZURICH

JPIA Report to Members

The Montana Association of Counties Joint Powers Insurance Authority has completed 93 months of operation providing property/casualty insurance coverage and services to members in Montana.

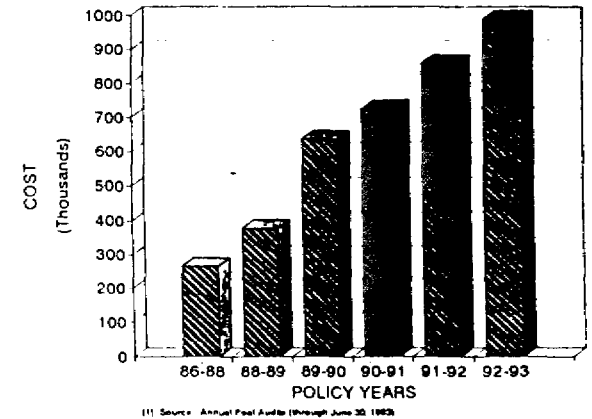
The current program continues to provide comprehensive insurance coverages for the pool members. Likewise, the program continues to achieve the goals of the pool: stability in insurance costs, availability of coverages, growth in self-funded equity, flexibility in managing one owns insurance program and the provision of cost/effective services provided by pool administration, risk management services and claims administration. The coverages provided by the pool continue to be expanded and enhanced with increased limits and the addition of weed liability coverage on an optional basis. In 1993 the pool offered coverage to 3 special district groups. The response from the affiliate groups since 1/1/95 has been very positive. Also, this year; the Trust dividended back to 20 county members a total of \$249,467; based on the experience in the policy year ending 6/30/91. The MACo/JPIA Board of Trustees, comprised of commissioners from member counties; thank you for your continued participation in the program and look forward to a successful 1994-95 year.

Annual Program Costs
Average/County



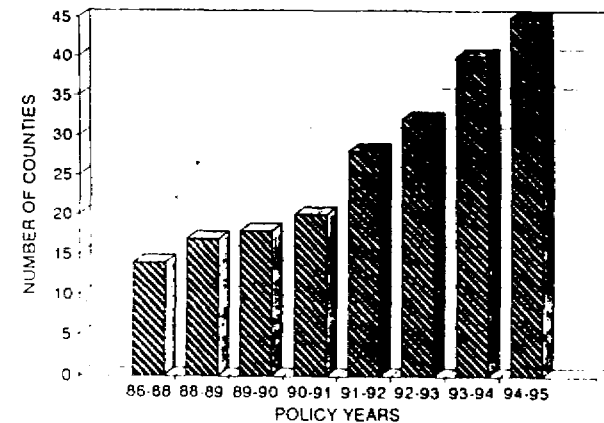
*Through 6/30/95, 15 special districts have joined as affiliate members.

LOSS FUND EQUITY INVESTMENT (1)



(1) Source: Annual Pool Audit (through June 30, 1993)

MEMBER COUNTIES



NOTE: TO DATE, 15 SPECIAL DISTRICTS HAVE JOINED AS AFFILIATE MEMBERS

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Government

COMMITTEE

BILL NO. 54; 61; 79

DATE 1-5-95

SPONSOR(S) REP. NELSON; REP. FELAND;
(HB 54; HB 61) HB 79

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jerry R. Wing	Clerk of Court Madison County		✓ 79
KATHY McGOWAN	MSPOA		✓ 79
Charles R. Brooks	Yellowstone County		
JOHN ALSTH	TOOLE COUNTY	79	
Allan Underdal	Toole County Commissioner	79	
Bob Gilbert	Mt. Magistrates Assoc		✓ 79
Roger McGlen	IIAM		54
ROBERT THROSSELL	MT Assoc. Clerk Recorder		79
Greg Jackson	MARCHIA	54/61	
Bob Worthington	MMIA	54	
Gordon Morris	MAC	54-79 61-79	
Cort Harrington	County Treasurer Ass.		79
JOE ROBERTS	MT. CNTY ATTY ASSN.		79

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

COMMITTEE

BILL NO. 79-61-54

SPONSOR (S)

PLEASE PRINT

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON HB 61

Motion/Vote: REP. MILLS MOVED HB 61 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 54

Motion/Vote: REP. ANDERSON MOVED HB 54 DO PASS AS AMENDED. Motion carried 17-1 with REP. WYATT voting no.

EXECUTIVE ACTION ON HB 79

Motion: REP. JOHN BOHLINGER MOVED HB 79 BE TABLED. HE THEN MOVED HB 79 DO NOT PASS.

Discussion: REP. EWER asked REP. BOHLINGER to consider making a do not pass motion so there might be some discussion, since it is not a debatable motion.

REP. ELLEN BERGMAN asked if the only due course a county commissioner would have to get rid of a county treasurer for not showing up for work would be a recall or is there a simpler way of doing it. Bart Campbell responded no and explained that because it's an elected official, the recall is the only recourse at this point in time. REP. BERGMAN said the reason for this bill is to simplify the problem of the county commissioners being left with the problem if another elected official is not doing their job.

REP. MATT BRAINARD said this bill as proposed makes two county commissioners judge, jury and executioner. In talking, this is unpopular in the county commissioner's office and he doesn't think this bill does justice to the problem. "If you have to remove somebody that has been elected by the vote of two people, two out of three is not sufficient. You would need a panel of all the elected members of the county."

REP. NORM MILLS stated he doesn't feel it is appropriate to give one elected official, elected by the same people as the other elected official, the right to remove him or her from office. That should be a function of a third party, appointed by the state or by recall. Since the state does not provide anything else but recall, he believed they should leave it to that. It should not be a prerogative of somebody he elected to an office as a voter to take somebody else he also elected to office as a voter and throw them out.

REP. JEANETTE MCKEE said in response to REP. BERGMAN that occasionally there is a problem but this bill is not the way to solve it as it causes a lot more problems. Perhaps in the future they can look at some other way because the county commissioners totally disagree with the manner of this bill.

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 1-10-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard			✓
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		



HOUSE STANDING COMMITTEE REPORT

January 11, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 54 (first reading copy -- white) do pass as amended.

Signed: _____

Wm E Boharski

Bill Boharski, Chair

And, that such amendments read:

1. Title, line 4.

Following: "ESTABLISHED"

Insert: "SEPARATELY OR JOINTLY"

2. Title, lines 5 and 6.

Following: "SUBDIVISIONS" on line 5

Strike: "ARE" through "COVERAGE" on line 6

Insert: "MAY OBTAIN EXCESS INSURANCE WITHOUT PROCEEDING UNDER THE PROVISIONS OF SECTION 33-2-302(2) THROUGH (4) OF THE SURPLUS LINES INSURANCE LAW"

3. Page 1, line 14.

Following: "insurance"

Insert: "separately or jointly"

4. Page 1, lines 14 through 16.

Following: "section"

Strike: "are" on line 14 through "coverage" on line 16.

Insert: "may obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302(2) through (4)"

-END-

Committee Vote:

Yes 17, No 1.

Rsa w4ntt

091015SC.Hbk

COMMITTEE PROXY

Date

10 JUL 95

I request to be excused from the

Local Government

Committee meeting this date because of other commitments. I

desire to leave my proxy vote with

Rep. Harwood

Indicate Bill Number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

64	✓	
54	✓	
Table	✓	

SENATE BILL/AMENDMENT AYE NO

Rep.

(Signature)

MATT -

VOTE FOR me ON LOCAL GOV'T

Kill ~~29~~ # 29 - TABLE or Do NOT PASS

Do PASS ON 54 unless something
Awful comes up

Do PASS ON 61

Matt Beason-Held

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on January 26, 1995, at
8:00 a.m.

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)
Sen. William S. Crismore (R)
Sen. C.A. Casey Emerson (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Terry Klampe (D)

Members Excused: Sen. Steve Benedict, Vice Chairman (R)

Members Absent: Sen. Bill Wilson (D)

Staff Present: Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 54, HB 126
Executive Action: HB 126 BE CONCURRED IN

HEARING ON HB 54

Opening Statement by Sponsor:

REP. TOM NELSON, HD 11, Billings, read his written statement.
EXHIBIT 1. He explained admitted carriers are insurance
companies that come into Montana and are licensed to do business
in Montana. One of the primary requirements to become an
admitted carrier is a deposit of \$0.5 million in assets in
Montana out of the company's reserve funds. Surplus lines
carriers are not admitted carriers, but they are qualified to
come in and provide occasional policies. The reason for this is
the company may offer a particular policy that is not available
from an admitted carrier. It is good public policy for the
surplus lines to make this coverage available. There is a
process for registering surplus lines carriers.

Proponents' Testimony:

Greg Jackson, JPIA, Marketing Director, handed out EXHIBIT 2. and explained that in 1985 the standard insurance market went through what is called a hard market; public entities were either unable to find coverages (especially for law enforcement), or if they could find coverage, the premium was increased anywhere from 50-300%. As a result of this, public entities started looking at self-insuring for the risks. When the program was structured it used surplus lines carriers to provide excess coverage over the self-insured portion of the program. He referred to page 2 of EXHIBIT 2 and stated it illustrated how the program is structured. The surplus carriers are not admitted carriers but they are A+ rated carriers. It has been the objective of the Board of Trustees to use financially sound, high rated, carriers. The pool is protected in an aggregate basis, meaning that the self-insured portion is also protected. The intent of the legislation is to clarify existing law.

Norm Grosfield, attorney for self-insured pools, emphasized the fact that if someone uses a surplus lines carrier it does not mean that they are bad carriers; on the contrary, they are excellent carriers. The state saves between \$100,000 and \$150,000 in premium costs, which is a direct benefit to the state taxpayers. The law was amended through contacts with the Independent Insurance Agents Association in order to precisely define what we attempted to do and to be sure that the language we proposed addressed what we were attempting to do in the change. We are not changing the law, we are clarifying the law.

Bob Worthington, Programs Administrator, Montana Municipal Insurance Authority, said the MMIA services cities and towns across the state. We fund our program with tax exempt bond issue. We have retained the ability to purchase excess insurance when it becomes financially viable and the bond issue is no longer of sufficient capacity. Although we do not use this option now, we would like to retain the option and therefore recommend a do pass on HB 54.

Vernon Peterson, Fergus County Commissioner, urged that HB 54 do pass.

Howard Baily, Montana School Services Foundation, said we have two self-funded programs. One is Workers Compensation with 205 members representing 300 school districts; we also have a self-funded health insurance program. He urged support for HB 54.

Gordon Morris, Director of the Association of Counties, Trustee of Joint Powers Insurance Authority, asked for the committee's favorable consideration of HB 54.

Opponents' Testimony:

Roger McGlenn, Independent Insurance Agents Association, Executive Director of Montana Surplus Lines Agents Association, spoke on behalf of the Independent Insurance Agents Association. The reason for the surplus lines laws in Montana is consumer protection. The admitted market is licensed to do business in Montana, the surplus lines market are approved by the Insurance Department to do business. The admitted market has to file its rates and forms, the surplus does not. The most important difference is the admitted market participation in the guaranteed fund. The surplus lines market does not participate in the guaranteed fund and the people buying insurance are not protected by the fund. The reason for a separate law is the necessity for a stamp on every policy informing the consumer that they are not protected by the guaranteed fund. Our concern with the bill is not with the MACO program. It is with the smaller surplus lines, other political subdivisions, and the problems with insolvent companies. He received phone calls from Blackfeet Tribes in Browning. They had purchased insurance through a federally authorized risk purchasing group, (which is not the same as these pools but is a mechanism to obtain insurance for these groups), and this group was based in Denver. One of the tribal members was looking for them and the address did not exist, neither did the company, and the tribe had no protection. A major surplus lines carrier went insolvent 2 years ago, (Casualty Indemnity Exchange). Several companies which put together programs incorporated in the Cayman Islands or the Virgin Islands, with minimum financial requirements, then went insolvent. Our concerns about political subdivisions not being protected under the guaranteed fund (if it is available through an admitted market), is that the taxpayer of Montana becomes the reinsurer. This is not a competitive issue. The Montana Association of Counties have programs which use independent agents to service local insurance for the County. With the amendments submitted in the House, this is an equal playing field. We can use surplus lines for those risks, as easily as the groups, pools, and political subdivisions, if the bill passes. One other concern is a matter of principle in exempting political subdivisions or government from laws with which the private sector must comply. Once we begin to permit exemptions, the legislature will be besieged with requests for further exemptions. Mr. McGlenn believed it was not good policy to do this.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. SPRAGUE asked REP. NELSON how he would address the comments made by Roger McGlenn. SEN. SPRAGUE got the impression this is a short term fix, counties have a cash flow problem and they are trying to get the lowest possible premium. They may be sacrificing a long term risk for the taxpayer. REP. NELSON

replied they are using surplus lines companies that are rated A+ and that is their protection against this.

SEN. MILLER asked REP. NELSON if the A+ rating is not mandated in the bill? Is that something they have chosen to do? REP. NELSON replied that was correct. In their fiduciary capacity they are trying to do the prudent thing. There is no doubt that the taxpayer is the ultimate insurer if there is an insolvency. It is in their best interest to use the strongest carrier they can.

SEN. FORRESTER asked REP. NELSON to characterize the argument made by Mr. McGlenn and asked him if he thought the argument was reliable in assessing that the difference hinged upon using the A-rated companies versus the fringe companies. SEN. NELSON said the issue is the responsibility of the public official who is purchasing the surplus lines coverage. SEN. FORRESTER asked if he would object to an amendment that would mandate a top rated company. SEN. NELSON said "no". SEN. FORRESTER requested an amendment to that effect. Bart Campbell requested permission to work with Mr. Cote from the Insurance Commissioner's office in drafting the amendment, as it is a highly technical area.

SEN. EMERSON asked REP. NELSON if they could require them to work with a company that is a member of a guaranteed fund. REP. NELSON stated that would not be feasible as surplus line carriers don't participate in the guaranteed fund, just admitted companies do. To require that would defeat the purpose of the bill.

SEN. SPRAGUE to Mr. McGlenn: the proposed amendment sounded reasonable but please explain whether the A+ rating is the highest rating. Mr. McGlenn replied the amendment is a step in the right direction. I would support the amendment but still oppose the bill. The ratings go from A+1 to A+15. The rating of an insurance company is a 'snapshot in time'; it is based on the financial status of the company at the time the financial review is done. It may not necessarily be a current reflection of the financial status.

SEN. SPRAGUE asked Mr. McGlenn if the amendment could be structured in such a way that if the company lost the A+ rating status we could keep the credibility of the company in check. Mr. McGlenn replied that you would then be dealing in insurance contracts. If a company fell below the rating and it was mid-term in the policy, there could be some penalties or short rate cancellations. There could be negative financial effects to the political subdivision from a premium standpoint. It could be done, but it would be difficult.

SEN. SPRAGUE, addressing the issue of exemption, asked whether the fact that municipalities, etc. which get exempted, could cause those of us who have to work with the Workers' Compensation system, to pick up a disproportionate share of the risk. Mr. McGlenn stated that his concern with the exemption was that if it is done for one, then the private sector will want to do it.

SEN. KLAMPE asked **REP. NELSON** what the benefit is to the counties in being able to do this. **REP. NELSON** deferred the question to **Mr. Grosfield** who replied that the savings to counties in dealing with a surplus lines carrier in the last fiscal year was \$127,000 in premiums, which is significant.

SEN. KLAMPE asked if that was worth the risk. **Mr. Grosfield** replied there was little risk. We are dealing with companies which in many other states are admitted companies but they choose not to be admitted in Montana for various reasons. He expressed concerns about the proposed amendment. We deal with Lloyds of London and Lloyds does not carry a rating in the USA. I think that the amendment will take away a substantial market that saves us a lot of money and provides us protection.

SEN. EMERSON asked why these companies don't think it is worth the hassle to be admitted in our state where they can sell extremely large policies. **Mr. McGlenn** stated that there are specific reasons for surplus lines companies. Lloyds of London is the largest in the world. The reason, in many cases, that they chose to be surplus lines, is that they handle risks which are normally "off the shelf" type of risks, ie. handling explosives' manufacturers. One of the reasons surplus lines do not have to file their rates and forms, is they can manuscript a policy to meet the needs of the special risks. Surplus lines are for golf tournaments, demolition derbies at the fair, etc. Nobody wants to write those policies, but the surplus lines companies do and are allowed to treat each one individually. That is why they chose not to be admitted because in so doing they would be required to file rates and forms which would lessen their flexibility in the marketplace. For the Montana Association of Counties, there may not be one company that wants to take all 56 counties in the state. The law was passed to insure that if there was an admitted carrier that would take the risk, the political subdivision would be required to go with that admitted company.

SEN. FORRESTER asked **Mr. Grosfield** the reason Lloyds of London cannot be rated. Is it because they had some problems with insolvency a few years back and shareholders lost millions of dollars? **Mr. Grosfield** stated he was not sure why they were not rated, but he believed it was because the American rating system does not rate foreign companies. The individuals that underwrote Lloyds lost money, but no insurer lost money and they are a very viable, very strong company. **Larry Zanto**, stated that the reason Lloyds is not rated is because they are not an insurance company per se. They are a facility that gathers together syndicates which are individually insured, putting their personal assets up to be allowed to do that. Some of Lloyds' syndicates were in trouble a few years ago, but not the syndicates we deal with. That is the reason Lloyds is not rated. It cannot put its assets on a balance sheet like most companies can because it is comprised of a group of syndicates.

SEN. SPRAGUE to Larry Zanto stated that he understood that Lloyds takes risks. Whenever you run out of insurers you can go to them for a "Red Adair" type of project. If Lloyds has to be brought into the risk taking prospects, the risk must be high. Mr. Zanto said the surplus lines deal more with tailored risks. SEN. SPRAGUE asked if risk was not really an issue here, rather it is about being more flexible than the typical company. Mr. Zanto replied they have been more flexible and willing to put together package programs than any other company has been willing to do.

SEN. KLAMPE asked Mr. McGlenn to explain the insolvency issue. Do the companies go insolvent while a claim is being processed or is it they just go insolvent? Mr. McGlenn stated it can be either way. It just happens.

Closing by Sponsor:

REP. NELSON closed by saying that the matter has validity and deserves the committee's consideration.

HEARING ON HB 126

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, Helena, was drafted at the request of Montana launderers and dry cleaners. They are seeking relief from regulation that current law imposes on them. In the current situation, they are required to keep articles of clothing, brought in to be cleaned, forever, if the owner forgets to pick them up. There is no provision in law that states a cut-off time period for a company storing unclaimed articles. This law would give the owner of the clothing 180 days to claim their articles, and would require the establishment to keep the tickets for a year. It would also allow them to recover their costs for cleaning and storage, and any amount over that would go to the County General Fund. The reason for that provision is because occasionally there is a fur coat or a leather coat or something of value.

Proponents' Testimony:

Dick Garrett, Montana Textile Services Association and Big Sky Cost Bureau, agreed the disposal of unclaimed laundry has long been a problem in Montana. The Department of Revenue reviewed this bill and with their help we have placed the bill under the abandoned property section. That also was responsible for the excess being put in the County General Fund. Motels and storage units are required to do so. They must also auction abandoned property. The laundry will be required merely to liquidate it. The bill will do 4 things: put definitive time of responsibility on the business establishment and the customer, allow for recovery of charges, free up valuable space, and give the customer incentive to come pick up their things. We will be

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE _____

1-26-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 1-26-95
BILL NO. HB 54

INTRODUCTORY STATEMENT
(HB 54)

The Montana Association of Counties Joint Powers Insurance Authority self-insured property and casualty pool was established in 1986 under the authority provided by Section 2-9-211 of the Montana Codes. Since the inception of the pool, the pool has purchased excess insurance coverage to cover the risk over and above the self-insured retention level established by the pools' Board of Trustees. The excess coverage is currently provided by surplus lines companies eligible to write such insurance in Montana.

The pools' Board of Trustees has proceeded to operate and purchase excess coverage based on previous Insurance Commissioner's interpretations of Sections 2-9-211 and Title 33-1-102 (8) (a) that exempts political subdivision self-insured pools from the provisions of the insurance code.

Recently, the previous interpretation of Section 33-1-102 (8) (a) has been revised regarding the purchase of excess coverage by surplus lines carriers. The revised interpretation requires compliance of the purchase of surplus lines coverage under the insurance code. The result of such an interpretation requires that if an authorized or admitted carrier is available to offer equivalent coverage to the pool, the pool would have to purchase such insurance from the admitted carrier, even though such coverage would have to be purchased at an increased cost to the pool or even reduced coverage for the pool.

HB 54, as amended, clarifies this issue and allows political subdivisions, who are self-insured either separately or jointly, to obtain excess insurance coverage without proceeding under the provisions of the insurance code as a condition precedent to procuring surplus lines insurance. HB 54 would retain subsection (1) whereby the purchase of excess coverage would be procured from a surplus lines company eligible to do business in Montana and subsection 5, whereby the pool would comply with other requirements of the code when procuring excess surplus lines coverage.

1/26/95

I wish to vote yes on HB 54
and yes on HB 126

STEVE BENEDICT

Steve Benedict

DATE

January 26, 1995

SENATE COMMITTEE ON

Business and Industry

BILLS BEING HEARD TODAY:

H/B 54 Rep. Nelson
H/B 126 Rep. Harper

< ■ >

PLEASE PRINT

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Check Off

Name	Representing	Bill No.	Support
GREG JACKSON	MACO / JP-IA	54	✓
FRED SIMMONS	NATIONAL Laundry Co.	HB 126	✓
DICK GARRETT	MT. Textile Assoc.	HB 126	✓
ROGER MCGLENN	INDEPENDENT INS. AGENTS ASSOC. OF MT.	HB 54	
Jim McNeill	MT CHAMBER	HB 126	✓
Gordon Morris	MACO	54	✓
Vern Peterson	MACO	54	✓
Bib Worthington	MTIA	54	✓
Howard R. Bailey	MSF	54	✓
Jim NYS	Self	126	✓
Jaqueline Denmark	Am. Ins. Assoc.	54	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HB 54

Discussion: SEN. FORRESTER offered amendments to HB 54, EXHIBIT 2. He stated that the intention of the amendments was to prevent counties from purchasing surplus lines insurance that could be shady. The amendment states the counties must use the pooled fund insurers because the pooled fund has legal expertise and financial expertise among the fund that would allow for oversight. Those entities that are not a part of the pooled fund would be required to use an insurer that carries an A rating or better by A.M. BEST or is a Lloyds of London Underwriter, EXHIBIT 2A.

Motion: SEN. FORRESTER MOVED THE AMENDMENT TO HB 54 BE ADOPTED.

Discussion: SEN. KEN MILLER asked if the "A" rating is a secure rating. SEN. FORRESTER stated that he had been assured that the "A" rating is near the top. The entities that are not in the pooled fund and want to use the surplus lines insurers have to go with an "A" rating or better company. It doesn't necessarily allow them to get the cheapest anymore, but allows some sense of security for the county.

SEN. TERRY KLAMPE asked if the surplus lines company could be rated by any other rating company besides A.M. Best. SEN. FORRESTER stated that if the company is not rated by A.M. Best then they can't buy insurance from them. SEN. KLAMPE asked SEN. FORRESTER why he was discriminating against Standard and Poris. SEN. FORRESTER stated that it was not his intent to discriminate but rather they had made an effort to keep the amendment simple. He noted there are very few dollars involved here as compared to the pool investment. SEN. KLAMPE suggested that the committee didn't know enough about how many different rating agencies are available to make the amendment.

SEN. BENEDICT suggested that the amendment be changed to read "A.M. Best, Standard and Poris, or a Lloyd's underwriter". SEN. FORRESTER stated that he would support that. SEN. KLAMPE asked if there were other rating agencies that were not included in the amendment. Roger McGlenn replied that the Lloyd's companies are rated, and asked Bart Campbell if private companies can be included in statute. Mr. Campbell stated that certainly there are private rating types in other areas that are used for standards. Mr. McGlenn suggested that the committee strike, after the word "better", "by A.M. Best" to include under industry standards all the rating companies.

SEN. BENEDICT stated that he could understand Mr. McGlenn's intentions but noted that in order to preserve a comfort level that some of the committee would prefer striking "by A.M. Best" and inserting "or better by a nationally recognized rating company".

Motion: SEN. BENEDICT MOVED TO AMEND THE AMENDMENT TO STRIKE "BY A.M. BEST" AND INSERT "BY A NATIONALLY RECOGNIZED RATING COMPANY".

Discussion: SEN. SPRAGUE asked SEN. BENEDICT to clarify if "or is a Lloyds of London underwriter" would be left in the amendment. SEN. BENEDICT replied it would.

Vote: The motion to AMEND THE AMENDMENT CARRIED UNANIMOUSLY.

Vote: The motion to ADOPT THE AMENDMENT, AS AMENDED, TO HB 54 CARRIED UNANIMOUSLY.

Motion/Vote: SEN. BENEDICT MOVED HB 54 BE CONCURRED IN AS AMENDED. The motion that HB 54 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. SEN. FORRESTER agreed to carry HB 54 on the Senate floor.

EXECUTIVE ACTION ON SB 164

Motion: SEN. KLAMPE MADE THE MOTION TO TABLE SB 164 AND THEN WITHDREW HIS MOTION TO ALLOW FOR DISCUSSION OF SB 164.

Motion: SEN. BENEDICT MADE THE MOTION TO ADOPT THE AMENDMENT, EXHIBIT 3.

Vote: The motion to ADOPT THE AMENDMENT CARRIED UNANIMOUSLY.

Motion: SEN. BENEDICT stated that for the purpose of being able to discuss the bill, he would MOVE THAT SB 164 DO PASS.

Discussion: SEN. KLAMPE referred to Mr. Shontz's testimony regarding the fee not being a tax and noted the groups that are currently left out pay fees and are regulated by the state.

SEN. MILLER stated that he supports the bill because it is a local option for licensing to cover local paperwork and miscellaneous. Secondly he stated this does not address all the professions that are licensed statewide. As a contractor he could have a state class license and still have to buy a city license for every city he works in so that the city would know who is in business.

SEN. BENEDICT expressed opposition to the bill. He believes it is nothing more than an additional tax on business. A business license is an extortion attempt by the city. The license does no good, has no benefit to the business or the community other than a disguise for a tax.

SEN. CASEY EMERSON insisted that the fee was generally for the processing of the paperwork and suggested that an amendment could be placed on the bill limiting specifically what could be charged for the license preventing towns from making a tax out of the

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL

DATE _____

1-27-95

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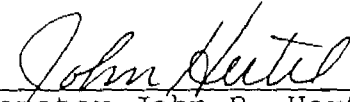
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 27, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 54 (third reading copy -- blue), respectfully report that HB 54 be amended as follows and as so amended be concurred in.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"

Insert: "(pooled fund)"

2. Page 1, line 20.

Following: "(4)."

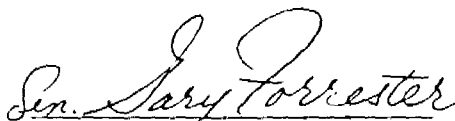
Insert: "Political subdivisions that are not in a pooled fund may obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302(2) through (4) only if the insurer carries an A rating or better by a nationally recognized rating company or is a Lloyds of London underwriter."

-END-



Amd. Coord.

51 Sec. of Senate


Senator Carrying Bill

231248SC.SRF

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 1-27-95
BILL NO. HB # 54

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 2

DATE 1/27/95

BILL NO. HB # 5

Amendments to House Bill No. 54
Third Reading Copy

Requested by Senator Forester
For the Committee on Business and Industry

Prepared by Bart Campbell
January 27, 1995

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"

Insert: "(pooled fund)"

2. Page 1, line 20.

Following: "(4)."

Insert: "Political subdivisions that are not in a pooled fund may obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302(2) through (4) only if the insurer carries an A rating or better by A.M. Best or is a Lloyds of London underwriter."

SENATE BUSINESS & INDUS
EXHIBIT NO. 2A
DATE 1/27/95
BILL NO. HB 54

Amendments to House Bill No. 54
Third Reading Copy

Requested by Senator Forester
For the Committee on Business and Industry

Prepared by Bart Campbell
January 27, 1995

1. Page 1, line 16.

Strike: "SEPARATELY OR"

Following: "JOINTLY"

Insert: "(pooled fund)"

2. Page 1, line 20.

Following: "(4)."

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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 1-27-95
BILL NO. HB 54